IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIRST DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

and
THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 11103 of 2004

Between:

1 The Principal Secretary to Govt., Transport, R&B (Ports),
Secretariat Buildings, A.P., at Hyderabad.
2 The Special Commissioner/Director of Ports, A.P., at Kakinada, E.G.District.
3 The Executive Engineer, Marine Division, Kakinada Port, E.G.District.

..... PETITIONERS

AND

1 E.Kasi Vishwanatham, Ex.Labour Maistry,
O/o Port Department, Kakinada, E.G.District.
2 R.Beeraraghava Rao, Ex.Labour Maistry,
O/o Port Department, Kakinada, E.G.District.
3 A.M.Horeb, Ex.Labour Maistry, o/o Port Department, Kakinada,
E.G.District.
4 J.Venkateswar Rao, Ex.Labour Maistry, o/o Port Department, Kakinada,
E.G.District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of 'certiorari' and calling for the records relating to the order passed in O.A.No.7362/97 dt.5-8-2003 on the file of Hon'ble A.P.Administrative Tribunal, Hyderabad and quash the same as illegal, arbitrary.

Counsel for the Petitioners: GP FOR SERVICES II

Counsel for the Respondents: MR.CH.JAGANNADHA RAO

The Court made the following :

HONOURABLE SRI JUSTICE J.CHELAMESWAR

AND

HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION No.11103 of 2004

ORDER: (Per Sri G.R.,J)

The respondents filed O.A.No.7362 of 1997 before the Andhra Pradesh Administrative Tribunal, seeking absorption as Work Inspectors/Maistries claiming parity with their juniors.

The respondents claimed to have been appointed as Labour Maistries during the years 1981 to 1983 on N.M.R. basis. Since they were retrenched, they filed I.D.No.54 of 1986 and an award was passed in the said I.D., declaring that they should be paid retrenchment compensation and notice pay, but no orders were passed by the Labour Court directing reinstatement with back wages. Aggrieved by the award dated 28-07-1986 in I.D.No.54 of 1986, the respondents herein filed writ petition No.8597 of 1987. The writ petition was allowed on 06-02-1992, directing their reinstatement. Aggrieved thereby the present writ petitioners filed a review petition. The review petition was disposed of directing the State Government to consider preparing a scheme for absorption of casual employees including the respondents herein. The respondents herein filed

O.A.No.54 of 1986 in the A.P.A.T. claiming that persons who were appointed subsequent to them were regularized in the service of the State, pursuant to an order dated 04-04-1989 in R.P.No.1777 of 1989 filed by them and another order dated 08-09-1989 in other review petitions. They also contended that they were not aware of those orders of the Tribunal, and they have now approached the Tribunal seeking the relief. The State resisted the claims of the respondents herein in the A.P.A.T., contending that as there was a ban on recruitment of N.M.R. workers, the respondents herein could not be re-engaged in the service. It was also contended that as the respondents herein were not in service, the question of regularization of their services on par with their juniors does not arise as they were already retrenched in September 1983 and were not in service ever since that time. By the order dated 05-08-2003, the A.P.A.T. disposed of the O.A.No.54 of 1986, directing the 1st respondent to pass necessary orders with regard to the re-appointment of the applicants. Aggrieved thereby, the writ petition is filed.

The petitioner, which includes the State Government, apprehend that the order of the Tribunal could be construed as a positive direction that the respondents herein are to be re-appointed. In the facts and circumstances of the case, it is apparent that the order of the Tribunal was only intended to call upon the State Government to consider all the circumstances with regard to the respondents herein and explore the possibility, in the facts and the legal environment applicable, for their appointment. Nothing in the order of the Tribunal could be construed as a positive direction to the petitioners herein to appoint the respondents in service or to regularize their service. The apprehension, on which the writ petition is based, is unfounded.

In view of the above circumstances, the petitioners may take a decision as directed by the Tribunal and consider the case of the respondents herein for appointment in accordance with their entitlement as per the relevant rules and vacancy position, expeditiously and in any case within a period of six weeks from the date of receipt of a copy of this order.

The writ petition is, accordingly, disposed of. No costs.

_

_____

(J.CHELAMESWAR, J)

21st July 2004 (GODA RAGHURAM,J)

Kvr/Mrk

To

1 The Principal Secretary to Govt., Transport, R&B (Ports),
Secretariat Buildings, A.P., at Hyderabad.
2 The Special Commissioner/Director of Ports, A.P., at Kakinada,

E.G.District.
3 The Executive Engineer, Marine Division, Kakinada Port, E.G.District.

4 Two C.Cs to the GP for Services-II, High Court buildings, AP High

Court, Hyderabad.

5. Two C.D. Copies.